



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, October 7, 2004, 7:30 p.m.
777 B Street, Hayward, CA 94541**

MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m., by Chair Sacks followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS: McKillop, Bogue, Thnay, Peixoto, and Zermefio
CHAIRPERSON: Sacks
Absent: COMMISSIONERS: None (One Vacancy)

Staff Members Present: Anderly, Conneely, Emura, Gaber, Koonze, Patenaude, Pearson, Macias, Rivas

General Public Present: Approximately 16

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARINGS

1. Site Plan Review No. PL-2004-0489 – Tom Young for Swearingen Systems Inc. (Applicant)/ Southland Mall LLP (Owner) – Request to Install a Solar Port at Southland Mall – The Project is Located on La Playa Drive opposite Calaroga Avenue
(Item continued to 10/21/04.)
2. Text Amendment Application No. PL-2004-0337 – Paige Bennett (Applicant) - Request to Amend the Fence Height Regulations within the Zoning Ordinance to Allow an 8-Foot High Fence where the Ordinance Limits the Fence Height to 6 Feet
(Item continued indefinitely.)
3. Use Permit No. PL-2004-0225 - Antonio Aransamendez (Applicant) / James Tong (Owner) – Request to Allow a Substantial Change in The Mode of Operation by Allowing Ancillary Live Entertainment and Dancing at a Restaurant – The Project is Located at 20500 E Hesperian Boulevard

Staff report submitted by Assistant Planner Koonze, dated October 7, 2004, was filed.

Planning Manager Anderly presented the staff report. She noted that COMMPRE had not submitted any objections to the business and did not have a representative present at this meeting. One individual submitted a letter that was attached to the report and he was in attendance. That individual does object to the establishment and would be addressing the Commission later. She stated that Lt. Larry Bird from the Police Department was available to answer any questions from Commissioners.

Chair Sacks opened the public hearing at 7:38 p.m.

Robert Lirio, on behalf of the owner, stated that the business had been in existence 12 years, and the singing and dancing almost 5 years, and they have never have any complaints. He noted that 90 percent of those who patronize the business are Filipino and they come from all over the Bay Area, and that he has very good clientele. He said the police frequently stop by and check on the business. The business is primarily a family restaurant, and they serve a buffet 7 days a week. He added that the karaoke and dancing take place on Friday and Saturday nights only, and after 10 p.m., no one under the age of 21 is allowed to stay. He has permanent security on Friday and Saturday evenings, 9:30 p.m. to 2:00 a.m., and often two or three security guards are on duty, but he is only required to have one. No alcohol is served after 1 a.m. Mr. Lirio responded to additional questions from Commissioners.

Commissioner McKillop inquired why after 5 years are they seeking a use permit now. Mr. Lirio stated that although he submitted plans for a dance floor and additional remodeling, no one ever said he had to have a permit for dancing, that it was just through routine investigation that it was discovered. Lt. Bird confirmed that there has been no police activity during the 12 years of operation of the business.

Lloyd Skillman, Cambridge Security, said he has provided security services to the business for over 5 years. There are always at least two guards present, and he usually circulates to make sure no one is drinking too much. He pointed out that they have a strict dress code which assists in keeping out unwanted clientele.

John Kyle, former real estate appraiser who lives and previously worked in the area, gave a history of the businesses on Hesperian from Winton to A Street, and discussed the types of residents and other services in the area. He stated that the business should have obtained the proper permit previously, and he complained about the inadequacy of the notices that were sent out. He noted that the main problem with the business is the parking lot and the lack of security there and asked that a condition be added to put a security guard in the parking lot.

Chair Sacks closed the public hearing at 7:57 p.m.

It was clarified that Condition 16 requires that there be at least one security guard per 100 people. Lt. Bird stated that the ABC officers monitor the business and there have always been 2 security guards present.

Commissioner Bogue commended Mr. Lirio and the business, especially for the dress code and the added security. He stated that he understood Mr. Kyle's concerns and that the clients of the establishment do go outside and smoke in the parking lot and that there might be a need to monitor external operations as well as the inside.



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Commissioner Thnay commended the business owner especially for the initiative of added security. He moved, seconded by Commissioner Bogue to approve the Use Permit Application, per staff recommendation.

Commissioner McKillop also commended the owner of the establishment for a spotless record for the area and stated she would be supporting the motion.

Commissioner Zermeño stated that he and his wife had visited the establishment and had eaten there. He also commended the applicant for the added security and stated that he should make sure that one patrols the parking lot on a regular basis.

Commissioner Peixoto also supported the motion noting the business is good for the area.

Commissioner Thnay moved, seconded by Commissioner Bogue, and unanimously carried, that the Planning Commission find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, Class 1 (A) Existing Facilities and approve the Use Permit Application subject to the attached findings and conditions of approval. The applicant was requested to have a security guard regularly patrol the parking lot.

The motion **carried** by the following vote: 6:0:1(vacant)

AYES:	COMMISSIONERS McKillop, Bogue, Thnay, Peixoto, and Zermeño
	CHAIRPERSON Sacks
NOES:	None
ABSENT:	None (One Vacancy)
ABSTAIN:	None

4. **Use Permit No. PL-2003-0701 – Lewis Larimer (Applicant/Owner) - Request for Outdoor Storage of Welding Contractor's Equipment and Products. The Project is Located at 3322 Baumberg Avenue**

Staff report submitted by Associate Planner Emura, dated October 7, 2004, was filed.

Associate Planner Emura presented the staff report. He responded to questions from Commissioners.

Commissioner Zermeño asked if it would be possible to place shrubs or trees in front of the property to block the view of the containers, and avoid a hardship on a small business owner.

Planning Manager Anderly stated that the City's Design Guidelines do not support the design use of shipping containers in lieu of a building.

Commissioner Bogue discussed the area, noting that it is presently in transition. While some of it is industrial, many people still live there. He asked about setting a date for the Use Permit until 2015.

Chair Sacks opened the public hearing at 8:17 p.m.

Lew Larimer, owner of the business since 1974, described the property, and noted that it was in a noisy and not particularly attractive area. He uses the containers for locking up his equipment and they were a major expense to him. The surrounding houses and buildings are in poor shape, there is a lot of non-compliant activity, and any improvement is a big improvement to the area. He showed pictures of the other properties surrounding his. He said he is willing to make the submitted improvements and paint the containers as required.

Mr. Larimer responded to questions from Commissioners and there was additional discussion regarding the poor condition of the surrounding properties. He noted that 2015 as the termination date of the Use Permit was acceptable.

Jason Christodoulou, stated that he was there for the fence item that was continued. However, he spoke on behalf of Mr. Larimer and commented that after seeing the pictures that were shown, Mr. Larimer's property is a great improvement to the area.

Wade Winblad spoke in favor of the applicant and allowing him to keep the containers.

Chair Sacks closed the public hearing at 8:31 p.m.

Commissioner McKillop moved, seconded by Commissioner Zermeño, that the project be brought back with findings and conditions for approval.

Commissioner Peixoto asked about setting a precedent.

Planning Manager Anderly stated that it is important that the recommendation be distinctive regarding this application and that it does not apply to small businesses throughout the city, as other businesses might consider using containers for storage. Each application will have to be considered on its own merits.

Chair Sacks stated that the distinction can be shown by the present condition of the area.

Commissioner Bogue suggested keeping the gravel and painting the containers a color that would blend in with the surroundings. He asked that staff confirm that the asphalt area is large enough so that there is sufficient maneuverability and that they are not forced to drive on gravel. The date of the permit to be 2015 with the possibility of extension if the area does not appear to be transitioning as anticipated.

Chair Sacks agreed with Commissioner Bogue and noted that she opposes an 8 foot fence due to the scale of the houses in the area.



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Commissioner McKillop moved, seconded by Commissioner Zermeno, and unanimously carried, that the Planning Commission finds that the project is categorically exempt from environmental review and have staff bring back the request for a Conditional Use Permit with findings and conditions for approval.

The motion **carried** by the following vote:

AYES:	COMMISSIONERS McKillop, Bogue, Thnay, Zermeno
	CHAIRPERSON Sacks
NOES:	Peixoto
ABSENT:	None (One Vacancy)
ABSTAIN:	None

ADDITIONAL MATTERS

5. Oral Reports on Planning and Zoning Matters

None

6. Commissioners' Announcements, Referrals

Commissioner Thnay acknowledged Commissioner's Zermeno's column in the Daily Review and said he enjoyed reading it.

APPROVAL OF MINUTES

Minutes of September 23, 2004 – Approved.

ADJOURNMENT

The meeting was adjourned by Chair Sacks at 8:44 p.m.

APPROVED:

Julie McKillop, Secretary
Planning Commission

ATTEST:

Connie G. Macias
Deputy City Clerk